

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into the 2024–25 Budget Estimates

Melbourne – Tuesday 21 May 2024

MEMBERS

Sarah Connolly – Chair

Nicholas McGowan – Deputy Chair

Michael Galea

Mathew Hilakari

Lauren Kathage

Bev McArthur

Danny O’Brien

Aiv Puglielli

Meng Heang Tak

WITNESSES

Natalie Hutchins MP, Minister for Treaty and First Peoples, and

Terry Garwood, Deputy Secretary, First Peoples–State Relations, Department of Premier and Cabinet.

The CHAIR: I declare open this hearing of the Public Accounts and Estimates Committee.

I ask that mobile telephones please be turned to silent.

On behalf of the Parliament, the committee is conducting this Inquiry into the 2024–25 Budget Estimates. The committee's aim is to scrutinise public administration and finance to improve outcomes for the Victorian community.

I advise that all evidence taken by the committee is protected by parliamentary privilege; however, comments repeated outside of this hearing may not be protected by this privilege.

As Chair I expect that committee members will be respectful towards witnesses, the Victorian community joining the hearing via the live stream today and other committee members.

Witnesses will be provided with a proof version of the transcript to check. Verified transcripts, presentations and handouts will be placed on the committee's website.

I welcome the Minister for Treaty and First Peoples the Honourable Natalie Hutchins as well as Mr Garwood from DPC. You are very much welcome here. Minister, I am going to invite you to make an opening statement or presentation of no more than 5 minutes, and this will be followed by questions from the committee. Your time starts now.

Natalie HUTCHINS: Thank you, Chair. Can I begin by acknowledging the traditional owners of the land on which we meet and paying my respects to their elders past and present.

Visual presentation.

Natalie HUTCHINS: I would like to go to the first slide, 'Towards truth and treaty', just to underpin the budget commitments that were made and build on the election commitments that were made: \$42 million to protect Aboriginal cultural heritage, including the funding for registered Aboriginal parties; \$12.5 million to provide essential services at Framlingham and Lake Tyers Aboriginal trusts, and I am happy to go into those in a little bit more detail; and \$6.8 million to support the extension of the Yoorook Justice Commission in government engagement with the process.

If we can go to the next one. Supporting Victoria's Aboriginal cultural heritage system is really making investments to ensure that Aboriginal culture is protected and managed extremely well. There is funding for Aboriginal registered parties and the Aboriginal Victorian heritage trust to meet statutory obligations under the Act and proactively identify and protect Victoria's Aboriginal cultural heritage, including the management of the Aboriginal Cultural Heritage Register, and to promote the protection of Aboriginal cultural heritage assets under the 2006 *Aboriginal Heritage Act* to provide strong protections for Aboriginal cultural heritage and decision-making while ensuring that land users and developments have clear processes to follow.

Next we have 'Delivering a Victorian truth and justice process'. The Yoorook Justice Commission has had a formal truth-telling process with Aboriginal Victorians and provides operational support to the Yoorook Justice Commission to deliver the third interim report and support delivery of a final report by the middle of next year to provide official public records of systemic injustice since the start of colonisation. And can I just say that this process is quite a phenomenal time in Victoria's history.

Finally, 'Sustainable funding for safe and self-governing Aboriginal trusts', particularly the continued operations and provision of municipal and essential services at both Framlingham and Lake Tyers, with two specific new projects: (1) new wastewater infrastructure at Framlingham Aboriginal Trust and (2) the replacement of the jetty at Lake Tyers, which is an extremely important not only cultural investment but also safety investment. As we have seen, this is an escape point during bushfires, having this jetty.

'Towards treaty' – our achievements over the last year include the appointment of five inaugural members to the Treaty Authority, the election of a second chamber of the First Peoples' Assembly, preparing the state for treaty negotiations, the opening of the Self-Determination Fund and of course delivering the 2022–23 annual treaty report as it stands.

So that is an overall summary of the portfolio. Thank you.

The CHAIR: Thank you, Minister. The first 8 minutes is going to go to Mrs McArthur.

Bev McARTHUR: Thank you, Chair. Thank you, Minister. I refer to budget paper 3, page 3, which has \$41 million to enable increased traditional owner access to water and decision-making in water management. How much of this money is going to be used to buy water for traditional owners, Minister?

Natalie HUTCHINS: I thank the member for her question, but this is all about Aboriginal cultural heritage management and self-determination. We do not actually determine the percentage of funds that will be used to buy water.

Bev McARTHUR: So you are buying water?

Natalie HUTCHINS: No. We do not determine that as part of this funding, because we underpin the values of self-determination when it comes to cultural heritage management. We have a Victorian Aboriginal Heritage Council that works with us on the management of such things.

Bev McARTHUR: Does that mean there will be no water bought to hand over to traditional owners? Maybe Mr Garwood could comment.

Terry GARWOOD: Thanks, Mrs McArthur, for the question. I mean, on that particular budget paper, BP3, page 3, there are actually three matters that relate specifically to the minister's treaty and First Peoples portfolio. One is delivering a Victorian truth and justice process –

Bev McARTHUR: Yes, I am interested in the water aspect.

Terry GARWOOD: That specific area of responsibility is the responsibility of the Minister for Water, and it is appropriate, therefore, to direct that question specifically to the Minister for Water. There are a range of other matters that are listed on BP3, page 3, that also are in a range of other portfolios, and questions related to those specific initiatives relate to those particular portfolios.

Bev McARTHUR: Well, don't you have a say in whether your constituencies should be able to buy water?

Terry GARWOOD: We are involved in our work with our colleagues in DEECA, but the actual portfolio responsibility for delivering outcomes under the water portfolio are the responsibility of the Minister for Water.

Bev McARTHUR: We will go to –

Danny O'BRIEN: Can I just add something?

Bev McARTHUR: Yes, go on.

Danny O'BRIEN: Can I ask then: what are the Indigenous people's desires with the water, Mr Garwood? Whether it has come from the First Peoples' Assembly or other groups that you are engaging with, what are they actually wanting with respect to that \$41 million?

Terry GARWOOD: Mr O'Brien, I mean, Victoria's traditional owners, Victoria's Aboriginal people, have a keen interest in water, as they do in land, as you would appreciate. That is why the government has got a very, very close working relationship with all of Victoria's traditional owners in relation to their interests in water. Their aspirations include having access to water in some form or other, and the government has been working closely with them to recognise particularly the cultural values of water – so places like Ghow Swamp, the river networks and systems et cetera and the work that the government has done in relation to the Birrarung, the Yarra River. There is keen and close interest from Victoria's traditional owners in having a relationship with

water and, through that relationship, working with the government to promote that relationship in a way that promotes cultural values.

Danny O'BRIEN: I understand it is not your portfolio, but I know in Gippsland, for example, the government has gifted water to traditional owners there. Is this \$41 million, to your understanding, going towards buying water at all?

Terry GARWOOD: As I said earlier, there are a range of initiatives that are listed on here as whole-of-government Aboriginal affairs –

Danny O'BRIEN: Okay. You do not know.

Bev McARTHUR: Okay. I will go to the 'Budget Overview' and page 38. With the \$273 million made available in this budget for treaty, Minister, will you rule out property or financial reparations being part of any treaty in Victoria?

Natalie HUTCHINS: Certainly the pathway to treaty that this government has taken over the last eight years means that we are at a time now where we are looking to have a treaty authority enacted and operational by mid this year so that the processes can be underway for us to come to the table. But I have many times said that we will not be ruling in or out any of the negotiation points for when treaty negotiations begin.

Bev McARTHUR: Good, we can take it that financial reparations and property buyouts could be part of it. Minister, would you rule out dedicated seats in the Victorian Parliament for Indigenous people being part of treaty in Victoria?

Natalie HUTCHINS: I think there needs to be a step taken back in terms of this conversation, around what a treaty means for Victoria, rather than to –

Bev McARTHUR: Well, does it mean reparations and financial payouts?

Natalie HUTCHINS: Well, after 200 years of colonisation, where this state took away lands and the settlement murdered people and took away culture and language, we are not going to be ruling anything in or out as we go to the negotiation tables in regard to treaty.

Bev McARTHUR: So that could include dedicated seats in the Parliament.

Natalie HUTCHINS: That has not been an express desire that has been put to me by First Nations people. In fact I think they think that our places of the lower and upper houses here are actually quite aggressive places that they would rather not be a part of.

Bev McARTHUR: Now, I cannot seem to get an answer from anybody in this government about the possibility that GORCAPA will hand over the Twelve Apostles – compulsory acquisition of that private property – to Eastern Maar. Can you rule that out?

Natalie HUTCHINS: You can scaremonger all you want in this space, because we know that you have been quite active in doing that in regional Victoria, but quite frankly First Peoples have been excluded from social and economic opportunities now for 200 years.

Bev McARTHUR: Minister, I take –

Natalie HUTCHINS: We are the first government to actually take –

Bev McARTHUR: On a point of order, Chair, I take exception to that.

The CHAIR: Mrs McArthur on a point of order.

Bev McARTHUR: I have a legitimate right to question the government on compulsory acquisition of private property for commercial purposes being handed over to other entities. You have an obligation to answer the people of Victoria and particularly private property owners on this aspect of handing over property to Indigenous groups or any other groups.

The CHAIR: On the point of order, Mrs McArthur, I think the minister was being relevant to the question that you asked. It is just that she was –

Danny O'Brien interjected.

The CHAIR: Mr O'Brien, do not interrupt me. The minister was answering your question. You need to give her time to answer your question.

Natalie HUTCHINS: The focus that we have on treaty is about building a new pathway going forward with Aboriginal people. Our intent –

Bev McARTHUR: That was not my question, Minister.

Natalie HUTCHINS: The intent –

Bev McARTHUR: My question is: are you going to hand over land, private property –

The CHAIR: Apologies, Mrs McArthur, your time is up. Thank you. We are going to Mr Tak.

Meng Heang TAK: Thank you, Chair. Minister, thank you for your presentations. I would like to talk to you about Yoorrook and truth-telling. I refer to also budget paper 3 on page 3. Could you please explain how the delivering a Victorian truth and justice process initiative will support the Yoorrook Justice Commission and truth-telling process in Victoria.

Natalie HUTCHINS: Yes. Thank you. I might have touched on this in my presentation and in the previous question, but the Yoorrook Justice Commission is playing an extremely important part of revealing to the world what happened here in colonisation through the ability for First Nations people to tell their story, tell their truth, but also for government representatives to be questioned about the policies and actions that were taken by government towards our First Nations people over the last 200 years. It is a very intense process to make sure that all aspects of First Peoples lives are focused in on in terms of systematic injustices and the way that government is delivering its services even today, let alone the policies that were made over many years. So this process is an important part of Victoria's history, because it will be recorded forever, and we know that this will be a resource to be taught to many Victorians in years to come as a point of reference that has never been available before here in Victoria.

Meng Heang TAK: Thank you, Minister. Also, in your presentation can you please explain a bit further why the truth-telling process is so important and particularly in this moment? Why is it so important for all Victorians?

Natalie HUTCHINS: I think one of the wonderful things about Victoria is that we are a proud multicultural state, Mr Heang, which I know you know, and we need to in that lens appreciate the fact that there has been a cultural history here for 65,000 years before settlement and just how that culture still plays a major role in our society today. Of course the truth-telling process is a big part of that. The commission, once it has done all its hearings and produces a final report, will be an official record based on First Peoples experiences, on systemic injustices that have happened since colonisation. Throughout our history First Peoples have been excluded from social and economic opportunities, and Yoorrook's role is to uncover that and make recommendations going forward so that when we do sit at the table to negotiate treaty we can build a new pathway going forward on how we share power and how we share resources with our First Nations people. Truth and treaty have not been an element anywhere else in this country, and Victoria is leading the way, yet every other Western country does have a process like this in place with treaty outcomes that is seeing First Nations people able to take up opportunities and thrive.

Meng Heang TAK: Thank you. I will come back to the cultural heritage just a little bit later, but, Minister, in your presentation can you please outline the steps Victoria has taken towards treaties to date?

Natalie HUTCHINS: Yes, I certainly can. Whilst there was no direct funding sought in this budget for treaty, because there was such a significant investment made last year, we are getting on with implementing the steps that are needed to be able to negotiate and finalise a treaty or multiple treaties into the future. We have started on that pathway. This has included the statewide election of the First Peoples' Assembly – the second one. This is our voice here in Victoria for First Nations people. We have also taken the steps, as I have just

mentioned, of establishing the Yoorrook Justice Commission. Over the last 12 months a lot of work has also been done to basically appoint and uphold a treaty authority, which is like the independent umpire in the treaty process. They are looking to be operational later this year, and we were pleased to be able to facilitate the appointment of five commissioners to that. The treaty negotiation framework has been established, and these are the agreed rules and processes for treaty making going forward. The Self-Determination Fund has also been established. This is a really important step in the independence of the process, particularly by making sure that both the government negotiators and the First Nations negotiators are on an equal footing when they come to the table by having equal capacity to resources through this fund to be able to negotiate on behalf of all First Nations peoples in Victoria and for us as a government to be at the table negotiating on behalf of all our departments.

Meng Heang TAK: Thank you, Minister. Can you also please provide further information on how treaty will further self-determination and the benefits that this will have for Victoria's economy?

Natalie HUTCHINS: Self-determination is a process that we started alongside the original talks around the treaty process more than eight years ago now. Self-determination is an extremely important part of government decision-making. When it comes to self-determination, you do not just consult; there is an entire process that you need to embed in your thinking and decision-making, and that is really something that we have been working on as a government to embed. It is not easy to make that change by any means, but it is a really important change to make. It is not just about reaching out to First Nations peoples, organisations or representatives and saying, 'I've consulted you via a 15-minute conversation.' Self-determination is about embedding a process where you get the information, you embed decision-making and outcomes and possibly even collaborating on responsibility with First Nations people on the delivery of things like health, education processes and economic opportunities. These are the things that across government we are very focused on. Self-determination is a really important pathway for us to close the gap and the gaps that exist between First Nations peoples' outcomes and Victorian non-Aboriginal outcomes. When you do the comparisons of life expectancy, of education outcomes, of a whole range of outcomes – criminal justice – you see that the gaps are so wide. We have national strategies to try and close those gaps, but we are seeing through reports that are constantly being done that we are not closing the gaps quick enough. We are not making enough progress, and that is because we are not embedding self-determination quick enough into Aboriginal decision-making.

It is a really important element that we saw come up through the Productivity Commission's report. Just I think back in March they released a report into closing the gap. At the heart of that they said the only way to make progress in closing the gaps – or the major thrust, I should say, of being able to do that – is through a process like treaty or embedding self-determination. In fact the Productivity Commission pointed to Victoria's progress in this space as an example. The Productivity Commission talked about four recommendations going forward: the need to share power, Indigenous data sovereignty and being able to recognise and support it, mainstream systems and cultures need to be fundamentally rethought, and stronger accountability is needed to drive behaviour change. That behaviour change is not just in our community; it is in our governments and departments to make that change. We know that when we hand over power to an Aboriginal organisation to deliver the services we get an absolutely better outcome. Whether that is in the health space, whether that is in the education space or whether it is in jobs, we can see massive improvements when we hand over those powers.

Meng Heang TAK: Thank you, Minister. I want to ask about cultural heritage, for somebody like me, coming from another country and having the benefit of everything that is given here in Victoria, in Australia, and representing really one of the most diverse electorates. Minister, on budget paper 3, page 3, can you please explain how the initiative supporting Victoria's Aboriginal cultural heritage system continues to support the Aboriginal cultural heritage management system?

Natalie HUTCHINS: I am really proud that this budget commits \$42.6 million over three years for the continued delivery of the administration cultural heritage management system to support traditional owners to manage their own culture. The initiatives go to funding registered Aboriginal parties who play a process under the Act and the Victorian Heritage Council.

The CHAIR: Thank you, Minister. Mr Puglielli.

Aiv PUGLIELLI: Good morning. In the recent Yoorrook hearings we have been hearing about just how extensively Victoria has extracted wealth from traditional owners through forced dispossession of country. Notwithstanding comments you have already made today, treaty negotiations are likely to discuss return of land to traditional owners, yet the government still has 146 plots of land currently being prepared for sale without due consideration of how those are going to form part of treaty reparations. Surely those sales cannot go ahead without that consideration.

Natalie HUTCHINS: Certainly there will be discussions obviously with the treaty process, but we have said in the lead-up to treaty that we would not stop delivering the services that we currently deliver and the partnerships that we are currently delivering to Aboriginal community. Those things do not get put on hold while we wait for treaty. Of course the rest of government business does not get put on hold as well. Certainly those processes do not move quickly. Our treaty process looks like it will be in a position where we can negotiate later this year. I have no doubt that there will be claims put on the table to make progress in this space, but at this stage we have not put a hold on any of our progress as a government.

Aiv PUGLIELLI: In light of those negotiations and land reparations, will the Labor government place a moratorium on the sale of public land pending treaty negotiations?

Natalie HUTCHINS: There is no intent to put a moratorium in place this side of the negotiations for the treaty outcomes, nor have we established a process in the treaty pathway for us to stop any of our government actions or work ahead of a treaty negotiation. What the outcomes will be I do not want to pre-empt. But certainly the government is open and willing to talk about particularly those areas of significant Aboriginal culture and heritage which already we have protections under the Act on, but speeding up some of those processes could be a feature during negotiations.

Aiv PUGLIELLI: If land is one of the things that is able to be put on the table by way of reparations with First Peoples, is it good-faith engagement to continue the sell-off of public land while the treaty process is ongoing?

Natalie HUTCHINS: I think you are just asking me the same question over, but my Secretary can also complement that.

Terry GARWOOD: If only I was the Secretary, Minister – Deputy Secretary.

Natalie HUTCHINS: Sorry, Deputy Secretary.

Terry GARWOOD: Just to provide some supplementary –

The CHAIR: Mr Garwood, just very briefly. We are out of time.

Terry GARWOOD: Sorry.

The CHAIR: And I am a ruthless timekeeper.

Terry GARWOOD: Just to make the point that the *Traditional Owner Settlement Act*, under which we have got four recognition and settlement agreements in place in Victoria already – the Gunaikurnai people; Dja Dja Wurrung; the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagulk people; and the Taungurung people – makes provisions under those settlements for the transfer of government-owned land, and that has occurred in those cases. We have currently got seven active native title claims before the Federal Court at the moment. Those claims may well come through the *Traditional Owner Settlement Act* process as well. So the point more generally is that whilst the treaty negotiations are commencing later this year, there is already a process around the *Traditional Owner Settlement Act* for the handing over of Crown land in certain ways under the Act.

The CHAIR: Thank you, Mr Garwood.

Bev McARTHUR: All negotiated in secret.

Terry GARWOOD: Not at all. Not at all.

Bev McARTHUR: They were.

The CHAIR: Mrs McArthur! Cease the sideline remarks.

Minister and Mr Garwood, thank you very much for appearing before the committee today. The committee will follow up on any questions taken on notice in writing, and responses are required within five working days of the committee's request. For anyone listening or watching this session who has found some of the content distressing, assistance is available. You may contact 13YARN on 13 92 76.

The committee is now going to take a short break before beginning its consideration of the portfolio for women at 9:45 am.

I declare this hearing adjourned.

Witnesses withdrew.